IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1385 OF 2004

Dr.Adam Mohammed Attar & Anr. .. Appellants.
Vs.
Chandulal M.Attar .. Respondent.

Mr.A.A.Kumbhakoni for the appellants.
Mr.S.S.Patwardhan for the respondent.

CORAM : D.B.BHOSALE, J.

DATED : 7TH FEBRUARY, 2007

P.C.:

. Heard learned counsel for the parties.

2. This second appeal is directed against the concurrent judgments of the courts below by which the suit filed by the plaintiff for specific performance of the contract dated 5.8.1998 came to be dismissed. The only question of law argued by Mr.Deshmukh, learned counsel for the appellants was that looking to the facts of the present case, the second part of Article 54 of the Limitation Act, 1967 was attracted and not the first part as held by the appeal court. He further submitted that in view of the other litigation pending between the parties the limitation in the present case stood extended and in view thereof dismissal of the appeal on the point of limitation was

wrong. I perused the judgments of the courts below and in particular paragraphs 13 and 15 of the judgment of the appeal court. It is clear from the recitals of the agreement that the date for performance of the contract was ascertainable. The observations made in paragraph 15 of the judgment that the suit for specific performance of the contract ought to have been filed on or before 5.2.2002, in my opinion, cannot be faulted and it was rightly held that the first part of Article 54 is attracted. Considering the concurrent findings recorded by the courts below and as I find sufficient material on record to sustain those findings and considering the limited jurisdiction of this court to disturb the findings of fact the instant appeal fails and dismissed as such.

(D.B.Bhosale, J.)